THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.3901 of 2006

Between:

M.Ramaswamy.

.. PETITIONER

and

The Girijan Co-operative Corporation Limited
and another.

..
RESPONDENTS

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ORDER:

It is stated that the petitioner while working as Senior Manager in

the respondent Corporation at Utnoor from 2001 to 2005, a huge quantity i.e., 60.46 quintals of spurious honey was purchased by three purchasing staff in the Society, which was not conforming to the Agmark standards and not fit for human consumption. It is further stated that in view of the said purchase, the respondent Corporation sustained loss to an extent of Rs.6,04,600/-. Therefore, the respondent Corporation decided to take disciplinary action against the petitioner and accordingly, a show-cause notice, dated 06-09-2005, was issued to the petitioner. For which, an explanation was submitted by the petitioner on 03-11-2005. However, the said explanation was not accepted and accordingly, the 2nd respondent passed the impugned order, dated 04-02-2006, holding that there was a failure in effective supervision with regard to purchase and storage of the said honey and therefore, huge loss has been caused to the respondent Corporation. In that regard, the respondent Corporation fixed 20% responsibility on the part of the petitioner and an amount of Rs.1,20,920/- was quantified and the same was sought to be recovered from his terminal benefits. In fact, the petitioner had retired from service on 31-10-2006.

It is the case of the petitioner that after submitting explanation to the show cause notice, the respondent Corporation has allowed him to retire without any reservation on 31-01-2006 and as such, the relationship of the employer and the employee was discontinued from 01-02-2006 onwards. Therefore, the impugned order passed by the 2nd respondent is illegal and without any justification.

It is further stated that the issue raised in this writ petition is squarely covered by the judgment of this court in W.P.No.4081 of 2003, dated 31-08-2005. The said writ petition was allowed following earlier judgments of this court holding that the respondent is incompetent to have continued the departmental proceedings against the petitioner after the

date of petitioner's cessation of services and, therefore, the impugned proceedings are invalidated on the ground of patent lack of competence.

It is stated that aggrieved by the said judgment in W.P.No.4081/2003, the respondents therein Writ Appeal Nos.2329 of 2005. It is stated that batch of Writ Appeal Nos.2236 of 2003, including W.A.No.2329 of 2005, were considered and the Division Bench of this court dismissed batch of Writ Appeals confirming the judgments of the Single Judges.

The learned counsel appearing for the respondents submits that in fact against the judgment of the Division Bench of this court in W.A.No.2630 of 2005, an appeal has been preferred before the Hon'ble Supreme Court. The Hon'ble Supreme Court, through order, dated 29-09-2006, in Petition for Special Leave Appeal (Civil). No.15772 of 2006, while issuing notice, stayed contempt proceedings.

There is no dispute that the Hon'ble Supreme Court has not stayed or suspended the orders of the Division Bench of this Court and, therefore, as long as the final orders of this court, which were confirmed by the Division Bench of this Court, have not been stayed or suspended by the Hon'ble Supreme Court, I am of the opinion that the judgment of the Division Bench of this court holds good.

Having regard to the facts and circumstances and in view of the aforesaid judgment of the Division Bench of this court, the writ petition is allowed as prayed for. There shall be no order as to costs.

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13-03-2007

Prv